



Pacific PEER

Public Employees for Environmental Responsibility

November 18, 2021

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

RE: FOIA REQUEST

Dear FOIA Officer:

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER) requests information about the force levels, retention rate and/or turnover rate for criminal investigative agents within the Criminal Investigation Division (CID) of the U.S. Environmental Protection Agency (EPA). turnover. Specifically, we request the following:

1. The number of criminal investigators currently assigned to the Office of Criminal Investigations;
2. By fiscal year, for each fiscal year from FY2011 through 2021:
 - A) , the number of criminal investigators currently assigned to the Office of Criminal Investigations; and
 - B) A summary reflecting the percentage or rate of CID agent turnover (or retention), including the seniority level of departing agents;
 - C) Any summary of exit interviews from departing agents giving the reason or reasons for their departures; and
 - D) Any analysis of whether CID agents are leaving the agency more quickly after initial training than was the case in prior years; and
3. Any analysis generated from the beginning of FY 2011 to present on the rate of declination of criminal referrals from CID by the Department of Justice.

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of *Vaughn v. Rosen* (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.



Pacific PEER

Public Employees for Environmental Responsibility

To the extent that EPA needs to perform a detailed review, PEER requests that all fees be waived because “disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor” (5 U.S.C. 552 (a) (4)(A)):

1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government.

The FOIA request is, by its terms, limited to identifiable activities of EPA and its employees.

2. For the disclosure to be “likely to contribute” to the understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.

The requested material consists of information about the force levels over time and the extent of turnover among highly trained criminal investigators. We are requesting information quantifying that turnover rate and what is the ascribed cause or causes. As such, the requested records are among the most meaningful documents that could be requested on this topic.

3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requestor or a narrow segment of interested persons.

The requested information concerns management and operational problems affecting the performance of criminal enforcement by CID. PEER believes that this information will add significantly to the general public understanding of the EPA criminal enforcement program by –

- Providing critical information relating to CID effectiveness. One measure of that effectiveness is whether experienced agents are staying in CID, as measured by retention rates (information we will then correlate with case production as reflected by prosecution referrals);
- Describing the reasons CID agents themselves are giving for leaving the program; and
- Providing a comparison over the past decade of whether retention rates are declining or increasing.

The general public has a keen interest in any factor bearing on the extent to which anti-pollution laws are being enforced. In addition, the public has an acute interest in any internal barriers or practices which impede or slow corporate environmental investigations and prosecutions.

In addition, the general public has an interest in learning whether the substantial financial investment made by taxpayers in training CID agents is diminished by higher than expected departure of newly trained agents.

PEER intends to provide the requested information to the general public through —



Pacific PEER

Public Employees for Environmental Responsibility

Ø Release to the news media;

Ø Posting on the PEER web page which draws between 1,000 and 10,000 viewers per day; and

Ø Publication in the PEER newsletter which has a circulation of approximately 20,000, including 1,500 environmental journalists.

As the Agency well knows from past direct experience, PEER has a long track record of attracting media and public attention to the internal records of federal agencies, including EPA and its CID program. Moreover, PEER believes that EPA also considers this information is of interest to the general public, as it regularly issues news releases about its criminal enforcement activities and, in the past, has made public statements about the subject matter of this request.

4. The disclosure must contribute “significantly” to public understanding of government operations or activities.

While it is difficult to warrant in advance to seeing it just how significant the information will be to the general public, the nature of the information should shed some direct light on how well CID does in retaining its investigative agents, whether turnover rates are disruptive to case completion and whether OCEFT management is addressing turnover causative factors.

The taxpayer investment in each CID agent is considerable and that taxpayer investment is jeopardized or devalued when agents quickly turn over. We strongly suspect that the request information will give the public an inside window into the depth of frustrations plaguing CID personnel. In addition, we believe these records will provide more detail and cast direct sunlight on what dysfunctional aspects of CID management will change or is being changed already.

5. The extent to which disclosure will serve the requestor’s commercial interest.

Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation’s resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code.

6. The extent to which the identified public interest in the disclosure outweighs the requestor’s commercial interest.

As stated above, disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation’s resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501 (c) (3) of the Internal Revenue code.



Pacific PEER

Public Employees for Environmental Responsibility

If you have any questions about this FOIA request, please contact me at (510) 213-7028. I look forward to receiving the agency's final response within 20 working days.

Cordially,

A handwritten signature in black ink, appearing to read "Jeff Ruch", is positioned below the word "Cordially,".

Jeff Ruch
PEER Pacific Director